IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 19724 of 1996

Between:

T. Govindu S/o. Subbarayadu , RTC Driver, R/o. Wyra, Khammam District,

..... PETITIONER

AND

1 The Vice Chairman & Managing Director, Andhra Pradesh State Road Transport Corporation,
Mushirabad, Hyderabad.
2 The Depot Manager, Andhra Pradesh State Road Transport Corporation ,
Madhira Depot, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for records relating to and in connection with impugned proceedings No. 01/2(4)/96-MDR dt. 2-9-1996 issued by the Respondent NO. 2 and quash the same as arbitrary, illegal, violative of principles of natural justice and violative of Article 14 of the Constitution of India, by way of issue of a writ, order or direction, more particularly in the nature of writ of Certiorari and consequentially direct the Respondents to reinstate the petitioner on duty with all benefits.

Counsel for the Petitioner: Mr.S.SRI RAM

Counsel for the Respondent Nos 1 & 2.: MRS. G. JYOTHI KIRAN, SC for APSRTC.

The Court made the following :

:ORAL ORDER:

By the show cause notice dated 02-09-1996 of the Depot Manager of the Andhra Pradesh Road Transport Corporation (for short 'the APSRTC'), Madhira , Khammam district, the petitioner, a driver working in the said Depot, was called upon to show cause why the penalty of removal from service be not imposed on him. This proposed punishment was communicated to the petitioner, while calling for his explanation on a *prima facie* satisfaction of the disciplinary authority as to the conclusions recorded in a domestic inquiry finding him guilty of the charge of rash and negligent driving, without anticipation and control of a vehicle on 27-02-1996, as a result of which conduct, the vehicle of the APSRTC hit the bus station platform and the bus station wall at Madhira bus station, as a result of which two lady passengers died, two were grievously injured and seven (7) others received minor injuries.

In respect of the same incident, the petitioner was also subjected to prosecution under Sections 337, 338 and 304-A IPC in C.C.No. 208 of 1996 on the file of learned Judicial Magistrate of First Class, Madhira, Khammam district. By the judgment dated 29-08-2000, the petitioner was acquitted. The State not having preferred any appeal, the acquittal is extant.

At the second show cause notice stage, the petitioner has instituted the writ petition, *inter alia*, contending that simultaneous domestic inquiry and criminal prosecution cannot be conducted on substantially similar allegations. Mr. S. Sriram, learned counsel for the petitioner now contends that in view of the subsequent developments, apropos the acquittal, it would be inequitable to permit the employer to pursue departmental inquiry from the stage beyond the second show cause

notice. The charge against the petitioner is also driving the vehicle without anticipation and control, in addition to rash and negligent driving. The APSRTC, a public corporation, having an extensive presence in the transport sector in the State, both as part of its public obligation in this regard and having regard to the extensive presence on the roads in the State is required to ensure that its employees, who are incharge of the driving of its vehicles, do not conduct themselves in a careless and negligent manner in the performance of their functions as would pose a threat to the life of other citizens.

The parameters of proof and the standards of proof required in a criminal prosecution are distinct from those required in a domestic inquiry. The charge in the domestic inquiry levelled against the petitioner is not identical to the offence for which he was proceeded against in the criminal case. The sanctions in a departmental inquiry is also distinct from those in a prosecution. While a domestic inquiry involves sanctions reaching out the service benefits in employment, the sanctions in a prosecution are directed towards the liberties of the accused when found guilty. In the light of these and a host of other cognate circumstances and in the absence of any authority which enunciates a linear principle of law of unbinding obligation that in all cases of acquittal in a prosecution, a person in employment cannot be proceeded against in a domestic inquiry on cognate charges, this court is not satisfied that it is a case where the further steps in the domestic inquiry against the petitioner should be interdicted. Any such relief granted in this writ petition would be detrimental to the public interest and the public faith in the administration of justice, particularly in the context of the APSRTC being a ‘State’ within the meaning of Article 12 of the Constitution of India.

It must, however, be recorded that the fact of the petitioner’s acquittal in C.C.No.208 of 1996 is a relevant circumstance that requires to be considered by the disciplinary authority, while considering the explanation of the petitioner to the show cause notice dated 02-09-1996, while proceeding to exercise disciplinary power. Such consideration ought to include the factum of acquittal and the circumstances in which the acquittal was recorded by the criminal court and in the context of the offences alleged against the petitioner. The petitioner also challenges the impugned show cause notice on other grounds as to violation of principles of natural justice in that, the inquiry report was communicated along with the impugned final show cause

notice dated 02-09-1996 wherein a provisional conclusion of acceptance with the conclusions of the Inquiry Officer have been recorded as also a provisional indication of the penalty to be imposed against the petitioner. This process adopted by the respondents, learned counsel alleges, is at variance with the law declared by the Supreme Court in ***Union of India Vs. Mohd. Ramzan Khan*** ([1]). *Ramjan Khan's case* (supra), ***Managing Director, E.C.I.L. Vs. B. Karunakar*** ([2]). Post *Karunakar's* case (supra), the courts on the aspect of natural justice have pointed out that mere technical violations of principles of natural justice would *per se* not invalidate quasi judicial proceedings, in particular, in disciplinary matters, in all situations and circumstances. It is also incumbent on the person, who presents a challenge to the domestic inquiry proceedings on a claim of violation of principles of natural justice, at any stage, to establish the prejudice he has suffered on account of the claimed violation vide ***Aligarh Muslim University Vs. Mansoor Alikhan*** ([3]); ***M.C. Mehta Vs. Union of India*** ([4]); ***State of U.P. Vs. Harendra Arora*** ([5]) and ***Canara Bank Vs. Debasis Das*** ([6]). The inquiry report has been furnished to the petitioner along with impugned show cause notice dated 02-09-1996. Since the inquiry officer is distinct from the disciplinary authority, apropos the law declared in *Karunakar* case supra, the charged employee must be given an opportunity to endeavour to persuade the disciplinary authority as to any errors in the analysis of evidence or conclusions recorded by the inquiry officer to enable disciplinary authority to come to an informed decision as to the vitality and the integrity of the conclusions arrived at by the inquiry officer. This opportunity has been presented to the petitioner by the communication of the enquiry report and giving him an opportunity to submit his explanation. The conclusions, as to the punishment proposed in the impugned show cause notice, are provisional conclusions. They are liable to be varied or eschewed depending upon whether the disciplinary authority is persuaded by the explanation submitted by the petitioner or the objections pointed out to the inquiry report. In all these matters, it is not a technical view as to the succession in which proceedings should be communicated as much as forensic discipline, neutrality or professionalism of the disciplinary authority, that is important. It also requires to be noticed that curial intervention at all intermediate stages in a domestic inquiry is likely to chill the confidence and regularity of departmental proceedings. It also tends to procrastinate the proceedings where evidence might be lost and the cutting edge of focus on the issues that require to be considered in a solemn and serious proceedings like

departmental proceedings, is lost.

The petitioner has a plentitude of opportunity to challenge the departmental proceedings on their conclusion by any adverse orders passed by the disciplinary authority after availing an appellate opportunity, if there is one. This court finds no warrant for interference at the stage of second show cause notice, as it has not been established that the issuance of show cause notice dated 02-09-1996 suffers from any patent or inherent lack of jurisdiction. Any interference, at this stage, would constitute interference in the nature of a writ of *Prohibition*.

The writ petition is, therefore, dismissed, but with the observations made above and the 2nd respondent is directed to consider the explanation that shall be submitted by the petitioner, if he so desires, within a period of two weeks from the date of receipt of a copy of this order. The 2nd respondent shall also record reasons on the aspects pointed out in the explanation that the petitioner may wish to submit to the show cause notice and the 2nd respondent shall also have due regard to the fact and relevance of the acquittal of the petitioner in C.C.No.208 of 1996. There shall be no order as to costs.

GODA RAGHURAM, J

Dt. 05-08-2004

Pvks/Dsr

To

1 The Vice Chairman & Managing Director, Andhra Pradesh State Road Transport Corporation,
Mushirabad, Hyderabad.
2 The Depot Manager, Andhra Pradesh State Road Transport Corporation ,
Madhira Depot, Khammam District.

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